

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

ALBERT JAMES GRAMS, JR.,

Defendant-Appellant.

UNPUBLISHED

October 5, 1999

No. 210040

Charlevoix Circuit Court

LC No. 97-022109 FH

Before: Griffin, P.J., and Zahra and Pavlich*, JJ.

MEMORANDUM.

Defendant appeals as of right from his sentence of four to fifteen years in prison imposed on his conviction of second-degree home invasion, MCL 750.110a; MSA 28.305(a), entered after a jury trial. We affirm.

The sentencing guidelines in effect at the time defendant was sentenced did not apply to the offense of second-degree home invasion. Defense counsel suggested that the trial court apply the guidelines applicable to breaking and entering an occupied dwelling, MCL 750.110; MSA 28.305, which recommended a minimum term range of zero to twelve months. The trial court rejected counsel's suggestion. In sentencing defendant to four to fifteen years in prison, with credit for ninety-nine days, the trial court noted that defendant had an extensive juvenile record and an adult record, that he had a substance abuse problem, and that he had committed the instant offense while on probation.

Defendant argues that he is entitled to resentencing because the minimum term of four years is disproportionate to his circumstances and to those of the offense. *People v Milbourn*, 435 Mich 630, 636; 461 NW2d 1 (1990). We disagree and affirm. Application of the guidelines by analogy is inappropriate. *People v Laube*, 155 Mich App 415, 417; 399 NW2d 545 (1986). When the sentencing guidelines do not apply to an offense, a sentence imposed for that offense is reviewed for an abuse of discretion. *People v Compagnari*, 233 Mich App 233, 235-236; 590 NW2d 302 (1998). Defendant had an extensive juvenile record, an adult record consisting of four misdemeanors, and was on probation for an assaultive offense when he committed the instant offense. The trial court was aware

* Circuit judge, sitting on the Court of Appeals by assignment.

of the circumstances surrounding the offense and of defendant's circumstances. The sentence imposed did not constitute an abuse of discretion. *Id.*

Affirmed.

/s/ Richard Allen Griffin

/s/ Brian K. Zahra

/s/ Scott L. Pavlich